

APPEAL NO. 032165
FILED SEPTEMBER 23, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 9, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable mental trauma injury on _____, and therefore did not have disability. The hearing officer further determined that the respondent (self-insured) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001. The claimant appeals these determinations. The self-insured urges affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable mental trauma injury, that she had disability as defined by Section 401.011(16), and that she gave timely notice of injury to her employer pursuant to Section 409.001. Conflicting evidence was presented on the disputed issues at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations that the claimant did not sustain a compensable mental trauma injury and that she did not timely notify her employer pursuant to Section 409.001 are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Because we have affirmed the determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that she did not have disability.

We note that in her appeal, the claimant appears to assert error due to the self-insured's failure to serve legal documents on the holder of a special power of attorney, which the claimant granted in 1999. This issue was not raised at the hearing, and any objection the claimant may have had has been waived.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**BT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge